

# HOUSE BILL No. 1335

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10-8-2.2; IC 36-8.

**Synopsis:** Police and firefighter pensions. Provides that a police officer or firefighter who retires or becomes disabled after December 31, 2005, is entitled to a pension based on the salary of the rank held at the time of retirement or disability. Provides that a surviving spouse of a police officer or firefighter who dies after December 31, 2005, is entitled to a benefit based on the salary of the rank held at the time of the death of the police officer or firefighter. Provides that certain surviving children of a police officer or firefighter who dies after December 31, 2005, are entitled to a benefit based on the salary of the rank held at the time of the death of the police officer or firefighter.

**Effective:** July 1, 2004.

**Kersey**

January 15, 2004, read first time and referred to Committee on Labor and Employment.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## HOUSE BILL No. 1335

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-10-8-2.2, AS AMENDED BY P.L.86-2003,  
2       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2004]: Sec. 2.2. (a) As used in this section, "dependent"  
4       means a natural child, a stepchild, or an adopted child of a public  
5       safety employee who:

6               (1) is less than eighteen (18) years of age;

7               (2) is eighteen (18) years of age or older and physically or  
8               mentally disabled (using disability guidelines established by the  
9               Social Security Administration); or

10              (3) is at least eighteen (18) and less than twenty-three (23) years  
11              of age and is enrolled in and regularly attending a secondary  
12              school or is a full-time student at an accredited college or  
13              university.

14       (b) As used in this section, "public safety employee" means a  
15       full-time firefighter, police officer, county police officer, or sheriff.

16       (c) This section applies only to local unit public employers and their  
17       public safety employees.

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(d) A local unit public employer may provide programs of group health insurance for its active and retired public safety employees through one (1) of the following methods:

- (1) By purchasing policies of group insurance.
- (2) By establishing self-insurance programs.
- (3) By electing to participate in the local unit group of local units that offer the state employee health plan under section 6.6 of this chapter.

A local unit public employer may provide programs of group insurance other than group health insurance for the local unit public employer's active and retired public safety employees by purchasing policies of group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(e) A local unit public employer may pay a part of the cost of group insurance for its active and retired public safety employees. However, a local unit public employer that provides group life insurance for its active and retired public safety employees shall pay a part of the cost of that insurance.

(f) A local unit public employer may not cancel an insurance contract under this section during the policy term of the contract.

(g) After June 30, 1989, a local unit public employer that provides a group health insurance program for its active public safety employees shall also provide a group health insurance program to the following persons:

- (1) Retired public safety employees.
- (2) Public safety employees who are receiving disability benefits under IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-8, or IC 36-8-10.
- (3) Surviving spouses and dependents of public safety employees who die while in active service or after retirement.

(h) A retired or disabled public safety employee who is eligible for group health insurance coverage under subsection (g)(1) or (g)(2):

- (1) may elect to have the person's spouse, dependents, or spouse and dependents covered under the group health insurance program at the time the person retires or becomes disabled;
- (2) must file a written request for insurance coverage with the employer within ninety (90) days after the person retires or begins receiving disability benefits; and
- (3) must pay an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active public safety employee (however, the employer may elect to pay any part of the person's premiums).

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(i) Except as provided in IC 36-8-6-9.7(f), ~~IC 36-8-6-10.1(h)~~,  
**IC 36-8-6-10.1(k)**, IC 36-8-7-12.3(g), ~~IC 36-8-7-12.4(j)~~,  
**IC 36-8-7-12.4(m)**, IC 36-8-7.5-13.7(h), ~~IC 36-8-7.5-14.1(i)~~,  
**IC 36-8-7.5-14.1(m)**, IC 36-8-8-13.9(d), ~~IC 36-8-8-14.1(h)~~,  
**IC 36-8-8-14.1(i)**, and IC 36-8-10-16.5 for a surviving spouse or  
dependent of a public safety employee who dies in the line of duty, a  
surviving spouse or dependent who is eligible for group health  
insurance under subsection (g)(3):

(1) may elect to continue coverage under the group health  
insurance program after the death of the public safety employee;

(2) must file a written request for insurance coverage with the  
employer within ninety (90) days after the death of the public  
safety employee; and

(3) must pay the amount that the public safety employee would  
have been required to pay under this section for coverage selected  
by the surviving spouse or dependent (however, the employer may  
elect to pay any part of the surviving spouse's or dependents'  
premiums).

(j) A retired or disabled public safety employee's eligibility for  
group health insurance under this section ends on the earlier of the  
following:

(1) When the public safety employee becomes eligible for  
Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program  
for active public safety employees.

(k) A surviving spouse's eligibility for group health insurance under  
this section ends on the earliest of the following:

(1) When the surviving spouse becomes eligible for Medicare  
coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health  
insurance program for active public safety employees.

(3) The date of the surviving spouse's remarriage.

(4) When health insurance becomes available to the surviving  
spouse through employment.

(l) A dependent's eligibility for group health insurance under this  
section ends on the earliest of the following:

(1) When the dependent becomes eligible for Medicare coverage  
as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health  
insurance program for active public safety employees.

(3) When the dependent no longer meets the criteria set forth in  
subsection (a).

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(4) When health insurance becomes available to the dependent through employment.

(m) A public safety employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the local unit public employer for active public safety employees if the public safety employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(n) A local unit public employer may provide group health insurance for retired public safety employees or their spouses not covered by subsections (g) through (l) and may provide group health insurance that contains provisions more favorable to retired public safety employees and their spouses than required by subsections (g) through (l). A local unit public employer may provide group health insurance to a public safety employee who is on leave without pay for a longer period than required by subsection (m), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

SECTION 2. IC 36-8-1-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 11.5. "Salary of the rank" means the base salary of the rank held by a member of the:**

**(1) police department; or**

**(2) fire department;**

**in the year of death, retirement, disability, or occurrence of disease, plus all longevity increases, if provided by the employer, but does not include remuneration or allowances for fringe benefits, incentive pay, holiday pay, insurance, clothing, automobiles, firearms, education, overtime, or compensatory time off.**

SECTION 3. IC 36-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The police chief or fire chief may be granted a leave of absence by the authority who appointed him. This appointing authority may also grant a leave of absence to any other full-time, fully paid police officer or firefighter.

(b) A leave of absence under subsection (a) shall be granted for service in the ~~Indiana~~ general assembly and may also be granted only for one (1) of the following reasons:

(1) Sickness.

(2) Disability.

(3) Sabbatical purposes.

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1 However, a leave of absence because of disability may not be granted  
 2 to a member of the 1977 fund under this subsection unless a leave  
 3 granted under subsection (g) has expired without disability benefits  
 4 having been paid from the 1977 fund. In the case of such an expiration,  
 5 a leave for purposes of disability may be granted under this subsection  
 6 but only until the member's eligibility for disability benefits is finally  
 7 determined.

8 (c) Before a leave of absence may be granted for sabbatical  
 9 purposes, the member must submit a written request explaining and  
 10 justifying the leave to the appointing authority. Sabbatical purposes  
 11 must be related to the improvement of the member's professional  
 12 performance and skills, such as education, special training, work  
 13 related experience, and exchange programs.

14 (d) This subsection applies to leaves of absence granted under  
 15 subsection (b)(1), (b)(2), or (b)(3). A leave of absence may extend for  
 16 a period of not more than one (1) year, determined by the appointing  
 17 authority, and may be renewed upon written request of the member.

18 (e) This subsection applies to leaves of absence granted for service  
 19 in the ~~Indiana~~ general assembly. If a police officer or firefighter serves  
 20 in the general assembly, he shall be granted a leave for the time spent  
 21 in this service, including the time spent for committee or legislative  
 22 council meetings.

23 (f) This subsection applies to leaves of absence granted under  
 24 subsection (b)(1), (b)(2), or (b)(3). A member on leave may receive  
 25 compensation in an amount determined by the appointing authority, up  
 26 to a maximum amount that equals his salary before the leave began.

27 (g) This subsection applies only to members of the 1977 fund. The  
 28 local board may grant a leave of absence for purposes of disability to  
 29 full-time, fully paid police officers or firefighters (including the police  
 30 chief or fire chief). The leave is subject to the following conditions:

31 (1) The police chief or fire chief must make a written  
 32 determination that there is no suitable and available work on the  
 33 appropriate department for which the fund member is or may be  
 34 capable of becoming qualified.

35 (2) The leave must be approved by the local board after a hearing  
 36 conducted under IC 36-8-8-12.7.

37 (3) The leave may not begin until the police officer or firefighter  
 38 has exhausted all paid leave for sickness.

39 (4) The leave shall continue until disability benefits are paid from  
 40 the 1977 fund. However, the leave may not continue for more  
 41 than six (6) months.

42 (5) During the leave:

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(A) the police officer or firefighter is entitled to receive compensation in an amount equal to fifty percent (50%) of the salary of a first class patrolman or first class firefighter on the date the leave begins; or

**(B) if the leave begins after December 31, 2005, a member of a police department or a member of a fire department may receive compensation in an amount determined by the appointing authority, up to a maximum amount that equals the salary of the rank of the member before the leave began.**

Payments of compensation under this subsection may not be made from the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund.

(h) Determinations under subsection (g) are not reviewable by the board of trustees of the public employees' retirement fund.

SECTION 4. IC 36-8-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The 1925 fund is derived from the following sources:

(1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest of any money, chose in action, personal property, or real property, or an interest in it. The local board shall take the property in the name of the local board and may hold, assign, transfer, or sell it.

(2) From money, fees, and awards that are paid or given to the police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and sold at a public sale in accordance with law.

(3) From an assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1925 fund:

**(A) before January 1, 2006, an amount equal to six percent (6%) of the salary of a first class patrolman; and**

**(B) after December 31, 2005, an amount equal to six percent (6%) of the salary of the rank of the member.**

However, the employer may pay all or a part of the assessment for the member.

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(b) The secretary of the local board shall prepare a roll of each of the assessments and place opposite the name of every member of the police department the amount of the assessment against him. The treasurer of the local board shall retain out of the salary paid to the member each month the amount of the assessment, other than any amount paid on behalf of the member, and credit it to the 1925 fund. Except to the extent the assessment is paid on behalf of the member, every person becoming a member of the police department is liable for the payment of the assessments and is conclusively considered to agree to pay it and have it deducted from his salary as required in this section.

SECTION 5. IC 36-8-6-8, AS AMENDED BY P.L.185-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) For a member who became disabled before July 1, 2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding:

(1) for a disability or disease occurring before July 1, 1982, fifty percent (50%); ~~and~~

(2) for a disability or disease occurring after June 30, 1982, **and before January 1, 2006**, fifty-five percent (55%) of the salary of a first class patrolman; **and**

**(3) for a disability or disease occurring after December 31, 2005, fifty-five percent (55%) of the salary of the rank of the member;**

to a member of the police department who has suffered or contracted a mental or physical disease or disability that renders the patrolman unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(b) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, **and before January 1, 2006**, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on

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duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13; and

(2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(c) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, **and before January 1, 2006**, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) that is not described in subsection (b)(1); and

(2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

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If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(d) **Except as otherwise provided in this subsection, for a member who becomes disabled after December 31, 2005, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of the rank of the member, to a member of the police department who has suffered or contracted a mental or physical disease or disability:**

**(1) that is:**

**(A) the direct result of:**

**(i) a personal injury that occurs while the fund member is on duty;**

**(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or**

**(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);**

**(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:**

**(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;**

**(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and**

**(iii) the disease can be traced to the fund member's employment as the proximate cause); or**

**(C) a disability presumed incurred in the line of duty under IC 5-10-13; and**

**(2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.**

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1 If a member who becomes eligible for a disability pension has more  
 2 than twenty (20) years of service, the member is entitled to receive  
 3 a disability pension equal to the pension the member would have  
 4 received if the member had retired on the date of the disability.

5 (e) Except as otherwise provided in this subsection, for a  
 6 member who becomes disabled after December 31, 2005, the 1925  
 7 fund shall be used to pay a pension in a sum determined by the  
 8 local board, but not exceeding fifty-five percent (55%) of the salary  
 9 of the rank of the member, to a member of the police department  
 10 who has suffered or contracted a mental or physical disease or  
 11 disability:

12 (1) that is not described in subsection (d)(1); and

13 (2) that renders the member unable to perform the essential  
 14 functions of any duty in the police department, considering  
 15 reasonable accommodation to the extent required by the  
 16 Americans with Disabilities Act.

17 If a member who becomes eligible for a disability pension has more  
 18 than twenty (20) years of service, the member is entitled to receive  
 19 a disability pension equal to the pension the member would have  
 20 received if the member had retired on the date of the disability.

21 (f) The member must have retired from active service after a  
 22 physical examination by the police surgeon or another surgeon  
 23 appointed by the local board. The disability must be determined solely  
 24 by the local board after the examination and a hearing conducted under  
 25 IC 36-8-8-12.7. A member shall be retained on active duty with full pay  
 26 until the member is retired by the local board because of the disability.

27 ~~(f)~~ (g) After a member has been retired upon pension, the local  
 28 board may, at any time, require the retired member to again be  
 29 examined by the police surgeon or another surgeon appointed by the  
 30 local board. After the examination the local board shall conduct a  
 31 hearing under IC 36-8-8-12.7 to determine whether the disability still  
 32 exists and whether the retired member should remain on the pension  
 33 roll. The retired member shall be retained on the pension roll until  
 34 reinstated in the service of the police department, except in case of  
 35 resignation. If after the examination and hearing the retired member is  
 36 found to have recovered from the member's disability and to be again  
 37 fit for active duty, then the member shall be put on active duty with full  
 38 pay and from that time is no longer entitled to payments from the 1925  
 39 fund. If the member fails or refuses to return to active duty, the member  
 40 waives all rights to further benefits from the 1925 fund.

41 ~~(f)~~ (h) If the salary of a first class patrolman is increased or  
 42 decreased, the pension payable **under subsection (a), (b), or (c)** shall

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be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below:

(1) the amount of the first full monthly pension received by that person; or

(2) fifty-five percent (55%) of the salary of a first class patrolman; whichever is greater.

~~(g)~~ (i) Time spent receiving disability benefits is considered active service for the purpose of determining retirement benefits until the member has a total of twenty (20) years of service.

~~(h)~~ (j) A fund member who is receiving disability benefits under this chapter shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

SECTION 6. IC 36-8-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1925 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:

(1) for a member who retires before January 1, 1986, two percent

(2%) of the first class patrolman's salary for each year of service; or

(2) for a member who retires after December 31, 1985, **and before January 1, 2006**, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. However, the pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in not less than twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) **The 1925 fund shall be used to provide a member of the police department who retires after December 31, 2005, from active duty after at least twenty (20) years of service an annual pension equal to fifty percent (50%) of the salary of the rank of the member at the date of retirement. The pension shall be computed on an annual basis but shall be paid in not less than twelve (12) equal monthly installments. If the salary of the rank of the member is increased or decreased after the date of the member's retirement, the pension payable shall be proportionately increased or decreased.**

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(d) If a member voluntarily retires after twenty (20) or more years of service, the member is entitled to retirement and the pension, without reference to his physical condition at the time of application. However, he then relinquishes all rights to other benefits or pensions for temporary disability. After retirement the member is not required to render further services on the police department, is no longer subject to the rules of the department, and may not be deprived of other benefits under this chapter that may accrue to ~~him~~ **the member** or **his the member's** dependents.

~~(d)~~ (e) To be retired based upon length of service, only the time served by the member on the regularly constituted police department may be computed. Time served by a member as a special police officer, a merchant police officer, or a private police officer may not be considered in computing length of service.

SECTION 7. IC 36-8-6-9.6, AS ADDED BY P.L.118-2000, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9.6. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 10.1 of this chapter).

(b) A payment shall be made to the surviving spouse of a deceased member in an amount fixed by ordinance, but at least an amount equal to the following:

(1) To the surviving spouse of a member who died before January 1, 1989, an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(2) Except as otherwise provided in this subdivision, to the surviving spouse of a member who dies after December 31, 1988, **and before January 1, 2006**, an amount per month, during the spouse's life, equal to the greater of:

(A) thirty percent (30%) of the monthly pay of a first class patrolman; or

(B) fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the amount under clause (B),

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the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of a first class patrolman. The amount provided in this subdivision is subject to adjustment as provided in subsection (e).

**(3) To the surviving spouse of a member who dies after December 31, 2005, an amount per month, during the spouse's life, equal to fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death. However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the amount, the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of the member at the time of death. The amount provided in this subsection is subject to adjustment as provided in subsection (f).**

(c) Except as otherwise provided in this subsection, a payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman **if the member dies before January 1, 2006, and twenty percent (20%) of the salary of the rank that the deceased member held at the time of death if the member dies after December 31, 2005, per month:**

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the total of benefits under this subsection added to the benefits under subsection (b) may not exceed the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service. ~~This maximum benefit is equal to fifty percent (50%) of the salary of a first class patrolman in the police department plus, for a member who retired before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service of the retired member over twenty (20) years or, for a member who retires after December 31, 1985, plus one percent (1%) of the first class patrolman's salary for each six (6) months of service of the retired member over twenty (20) years. However, the maximum~~

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benefit may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman.

(d) Except as otherwise provided in this subsection, if a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to:

(1) twenty percent (20%) of the monthly pay of a first class patrolman **if the member dies before January 1, 2006; and**

**(2) twenty percent (20%) of the salary of the rank that the member held at the time of death if the member dies after December 31, 2005;**

per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(e) If the salary of a first class patrolman **as provided under subsection (b)(1) or (b)(2)** is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

**(f) If the salary of a current member of the police department holding the rank that the deceased member held at the time of death as provided under subsection (b)(3) is increased or decreased, the pension payable under this section shall be proportionately increased or decreased.**

SECTION 8. IC 36-8-6-10.1, AS AMENDED BY P.L.86-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.1. ~~(a) This section applies to a member who dies in the line of duty after August 31, 1982.~~

~~(b)~~ **(a) If a member dies in the line of duty after August 31, 1982, and before January 1, 2006,** the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but no less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the surviving spouse

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remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

**(b) If a member dies in the line of duty after December 31, 2005, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a member holding the rank that the deceased member held at the time of death.**

**(c) If a member dies in the line of duty after August 31, 1982, and before January 1, 2006,** a payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer.

**(d)** The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

**(e) If a member dies in the line of duty after December 31, 2005, a payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the salary of the rank that the deceased member held at the time of death per month to each child:**

- (1) until the child becomes eighteen (18) years of age;**
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or**
- (3) during the entire period of the child's physical or mental**

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disability;  
whichever period is longest.

(f) The surviving children of the deceased member who are eligible to receive a benefit under subsection (e) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the salary of the rank that the deceased member held at the time of death. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(g) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to:

(1) twenty percent (20%) of the monthly pay of a first class patrolman if the member dies before January 1, 2006; and

(2) twenty percent (20%) of the salary of the rank that the member held at the time of death if the member dies after December 31, 2005;

per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(h) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(i) If the salary of a current member of the police department holding the rank that the deceased member held at the time of death as provided under subsection (b) or (e) is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(j) For purposes of this section, "dies in the line of duty" means

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1 death that occurs as a direct result of personal injury or illness caused  
 2 by incident, accident, or violence that results from any action that the  
 3 member in the member's capacity as a police officer:

- 4 (1) is obligated or authorized by rule, regulation, condition of  
 5 employment or service, or law to perform; or
- 6 (2) performs in the course of controlling or reducing crime or  
 7 enforcing the criminal law.

8 The term includes a death presumed incurred in the line of duty under  
 9 IC 5-10-13.

10 ~~(h)~~ (k) The unit of local government that employed the deceased  
 11 member shall after December 31, 2003, offer to provide and pay for  
 12 health insurance coverage for the member's surviving spouse and for  
 13 each natural child, stepchild, or adopted child of the member:

- 14 (1) until the child becomes eighteen (18) years of age;
- 15 (2) until the child becomes twenty-three (23) years of age if the  
 16 child is enrolled in and regularly attending a secondary school or  
 17 is a full-time student at an accredited college or university; or
- 18 (3) during the entire period of the child's physical or mental  
 19 disability;

20 whichever period is longest. If health insurance coverage is offered by  
 21 the unit to active members, the health insurance provided to a surviving  
 22 spouse and child under this subsection must be equal in coverage to  
 23 that offered to active members. The offer to provide and pay for health  
 24 insurance coverage shall remain open for as long as there is a surviving  
 25 spouse or as long as a natural child, stepchild, or adopted child of the  
 26 member is eligible for the coverage under subdivision (1), (2), or (3).

27 SECTION 9. IC 36-8-6-11 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) The 1925 fund  
 29 shall be used to pay an amount, equal to the pensions provided by this  
 30 chapter in the case of voluntary retirement **before January 1, 2006**,  
 31 after twenty (20) years service, to a member of the police department  
 32 who is dismissed for any reason after having been in actual service for  
 33 twenty (20) years, including two percent (2%) additional for each full  
 34 year of service in excess of twenty (20) years service. However, a  
 35 pension under this section may not exceed in any year an amount  
 36 greater than seventy-four percent (74%) of the salary of a first class  
 37 patrolman.

38 (b) **The 1925 fund shall be used to pay an amount equal to the**  
 39 **pensions provided by this chapter in the case of voluntary**  
 40 **retirement after December 31, 2005, after twenty (20) years**  
 41 **service, to a member of the police department who is dismissed for**  
 42 **any reason after having been in actual service at least twenty (20)**

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years.

SECTION 10. IC 36-8-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The 1937 fund is derived from the following sources:

(1) From all money and other property that is given to the local board or 1937 fund for the uses and purposes for which the fund is created. The local board may take by gift, grant, devise, or bequest any money, personal property, real estate, or an interest in it. The gift, grant, devise, or bequest may be absolute or in fee simple or upon the condition that only the rents, income, or profits arising from it may be applied to the purposes for which the fund is established.

(2) All money, fees, rewards, or emoluments that are paid, given, devised, or bequeathed to the fire department or one (1) of the fire companies.

(3) All money accruing as interest on the securities or investments that are owned by and held in the name of the local board.

(4) All money received by the local board from the sale or by the maturity of securities or investments owned by the local board.

(5) An assessment made during the period of ~~his~~ **a member's** employment or for thirty-two (32) years, whichever is shorter, on the salary of each member equal to:

**(A) before January 1, 2006, six percent (6%) of the salary of a fully paid first class firefighter; and**

**(B) after December 31, 2005, six percent (6%) of the salary of the rank of the member.**

However, the employer may pay all or a part of the assessment for the member. The secretary of the fire department, or the person whose duty it is to make out the payrolls, shall place on the payroll opposite the name of every member the amount of assessment on ~~his~~ **the member's** salary. The unit's fiscal officer shall deduct monthly from the salary of every member the sum listed opposite ~~his~~ **the member's** name, other than any amount paid on behalf of the member, and shall credit that amount to the 1937 fund. Except to the extent the assessment is paid on behalf of the member, every person who becomes a member of the fire department is liable for the assessment and is conclusively considered to agree to pay it by having it deducted from ~~his~~ **the member's** salary as required in this section.

(6) Appropriations that are made for the fund by the unit's fiscal body.

SECTION 11. IC 36-8-7-11, AS AMENDED BY P.L.185-2002,

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SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) If a member of the fire department becomes seventy (70) years of age or is found upon examination by a medical officer to be physically or mentally disabled and unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, so as to make necessary the person's retirement from all service with the department, the local board shall retire the person.

(c) The local board may retire a person for disability only after a hearing conducted under IC 36-8-8-12.7.

(d) If after the hearing the local board determines that a person who became disabled before July 1, 2000, is disabled and unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(e) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee determines that a person who becomes disabled after June 30, 2000, **and before January 1, 2006:**

(1) has a disability that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is responding to an emergency or reported emergency for which the fund member is trained; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

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(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(f) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee determines that a person who becomes disabled after June 30, 2000, **and before January 1, 2006:**

(1) has a disability that is not a disability described in subsection (e)(1); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

**(g) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee determines that a person who becomes disabled after December 31, 2005:**

**(1) has a disability that is:**

**(A) the direct result of:**

**(i) a personal injury that occurs while the fund member is on duty;**

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(ii) a personal injury that occurs while the fund member is responding to an emergency or reported emergency for which the fund member is trained; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of the rank of the member before the date of the disability. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(h) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee determines that a person who becomes disabled after December 31, 2005:

(1) has a disability that is not a disability described in subsection (e)(1); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the

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1 person from the 1937 fund of an amount equal to fifty-five percent  
 2 (55%) of the salary of the rank of the member before the date of  
 3 the disability. All physical and mental examinations of members of  
 4 the fire department shall be made on order of the local board by a  
 5 medical officer designated by the local board.

6 SECTION 12. IC 36-8-7-12.1, AS AMENDED BY P.L.118-2000,  
 7 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2004]: Sec. 12.1. (a) Benefits paid under this section are  
 9 subject to section 2.5 of this chapter.

10 (b) A member who has been in service twenty (20) years, upon  
 11 making a written application to the fire chief, may be retired from all  
 12 service with the department **before January 1, 2005**, without a  
 13 medical examination or disability. Except as provided in subsection ~~(f)~~  
 14 **(g)**, the local board shall authorize the payment to the retired member  
 15 of fifty percent (50%) of the salary of a fully paid first class firefighter  
 16 of the unit at the time of the payment of the pension, plus:

17 (1) for a member who retires before January 1, 1986, two percent  
 18 (2%) of that salary for each year of service; or

19 (2) for a member who retires after December 31, 1985, one  
 20 percent (1%) of that salary for each six (6) months of service;  
 21 over twenty (20) years. However, the pension in one (1) year may not  
 22 exceed an amount greater than seventy-four percent (74%) of the salary  
 23 of a fully paid first class firefighter.

24 (c) **A member who has been in service at least twenty (20) years,**  
 25 **upon making a written application to the fire chief, may be retired**  
 26 **from all service with the department after December 31, 2005,**  
 27 **without a medical examination or disability. Except as provided in**  
 28 **subsection (h), the local board shall authorize the payment to the**  
 29 **retired member of fifty percent (50%) of the salary of the rank of**  
 30 **the member on the date of the member's retirement.**

31 (d) A member who is discharged from the fire department after  
 32 having served at least twenty (20) years is entitled to receive the  
 33 amount **under subsection (b) or (c)** equal to the amount that the  
 34 member would have received if the member retired voluntarily.

35 ~~(d)~~ (e) All pensions in a class are on an equal basis. The local board  
 36 may not depart from this chapter in authorizing the payment of  
 37 pensions.

38 ~~(e)~~ (f) The monthly pension payable to a member may not be  
 39 reduced below the amount of the first full monthly pension received by  
 40 that person.

41 ~~(f)~~ (g) The monthly pension payable to a member who is transferred  
 42 from disability to regular retirement status **and received benefits**

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1 **under section 11(e) or 11(f) of this chapter** may not be reduced  
 2 below fifty-five percent (55%) of the salary of a fully paid first class  
 3 firefighter in the unit at the time of the payment of the pension.

4 **(h) The monthly pension payable to a member who is**  
 5 **transferred from disability to regular retirement status and**  
 6 **received benefits under section 11(g) or 11(h) of this chapter may**  
 7 **not be reduced below fifty-five percent (55%) of the current salary**  
 8 **of the rank of the member before the date of the member's**  
 9 **disability.**

10 ~~(g)~~ **(i)** A benefit payable under this section shall be paid in not less  
 11 than twelve (12) monthly installments.

12 ~~(h)~~ **(j)** A fund member who is receiving disability benefits under this  
 13 chapter shall be transferred from disability to regular retirement status  
 14 when the member becomes fifty-five (55) years of age.

15 SECTION 13. IC 36-8-7-12.2, AS ADDED BY P.L.118-2000,  
 16 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2004]: Sec. 12.2. (a) This section applies to an active or  
 18 retired member who dies other than in the line of duty (as defined in  
 19 section 12.4 of this chapter).

20 (b) If a member of the fire department or a retired member of the  
 21 1937 fund dies and leaves:

- 22 (1) a surviving spouse;
- 23 (2) a child or children less than eighteen (18) years of age;
- 24 (3) a child or children at least eighteen (18) years of age who are
- 25 mentally or physically incapacitated; or
- 26 (4) a child or children less than twenty-three (23) years of age
- 27 who are:

28 (A) enrolled in and regularly attending a secondary school; or

29 (B) full-time students at an accredited college or university;

30 the local board shall authorize the payment to the surviving spouse and  
 31 to the child or children the amount from the fund as prescribed by this  
 32 section. If the surviving spouse of a deceased member remarried before  
 33 September 1, 1983, and pension benefits ceased on the date of  
 34 remarriage, the benefits for the surviving spouse shall be reinstated on  
 35 July 1, 1997, and continue during the life of the surviving spouse. If the  
 36 pension of the surviving spouse of a deceased member has ceased by  
 37 virtue of the spouse's remarriage, and if the person to whom the spouse  
 38 has remarried was a retired member of the fire department who was  
 39 also entitled to a pension, then upon the death of the member to whom  
 40 the spouse had remarried, the spouse is entitled to receive a pension as  
 41 the surviving spouse of a deceased member as though the spouse had  
 42 not been remarried.

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(c) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund that is prescribed by this section.

(d) If a member dies while in active service or after retirement:

(1) the surviving spouse is entitled to receive an amount fixed by ordinance but not less than:

(A) for the surviving spouse of a member who dies before January 1, 1989, thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; ~~and~~

(B) for the surviving spouse of a member who dies after December 31, 1988, **but before January 1, 2006**, except as otherwise provided in this clause, an amount per month, during the spouse's life, equal to the greater of thirty percent (30%) of the monthly pay of a first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death (these amounts shall be proportionately increased or decreased if the salary of a first class firefighter is increased or decreased); however, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the second amount under this item, the member's benefit is considered to be fifty percent (50%) of the monthly salary of a first class firefighter in the unit at the time of payment of the pension; **and**

**(C) for the surviving spouse of a member who dies after December 31, 2005, an amount per month, during the spouse's life, equal to the greater of thirty percent (30%) of the monthly salary of the rank held by the member at the time of death or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death (these amounts shall be proportionately increased or decreased if the salary of the rank of a member holding the same rank as the deceased member is increased or decreased). However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the second amount under this clause, the member's benefit is**

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**considered to be fifty percent (50%) of the monthly salary of the rank of the member at the time of death;**

(2) the member's children who are:

(A) less than eighteen (18) years of age; or

(B) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension **if the member's death occurred before January 1, 2006, and not less than twenty percent (20%) of the current salary of the rank held by the member at the time of death if the member's death occurred after December 31, 2005;** and

(3) each parent of a deceased member who was eligible for a pension is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension **if the member's death occurred before January 1, 2006, and not less than thirty percent (30%) of the current salary of the rank held by the member at the time of death if the member's death occurred after December 31, 2005.**

If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2)(B), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(e) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

SECTION 14. IC 36-8-7-12.4, AS AMENDED BY P.L.86-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12.4. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, **and**

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**before January 1, 2006**, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a fully paid first class firefighter. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

**(c) If a member dies in the line of duty after December 31, 2005, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a member holding the rank that the deceased member held at the time of death.**

**(d) If a member dies in the line of duty while in active service after August 31, 1982, and before January 1, 2006, the member's children who are:**

(1) less than eighteen (18) years of age; or  
 (2) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;  
 are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

**(e) If a member dies in the line of duty while in active service after December 31, 2005, the member's children who are:**

(1) less than eighteen (18) years of age; or  
 (2) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;  
 are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the current salary of the rank that the deceased member held at the time of death.

**(f) The surviving children of the deceased member who are**

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1 eligible to receive a benefit under subsection ~~(c)~~ (d) may receive an  
 2 additional benefit in an amount fixed by ordinance, but the total  
 3 additional benefit under this subsection to all the member's children  
 4 may not exceed a total of thirty percent (30%) of the monthly wage  
 5 received by a first class firefighter. However, this limitation does not  
 6 apply to the children of a member who are physically or mentally  
 7 disabled.

8 **(g) The surviving children of the deceased member who are**  
 9 **eligible to receive a benefit under subsection (e) may receive an**  
 10 **additional benefit in an amount fixed by ordinance, but the total**  
 11 **additional benefit under this subsection to all the member's**  
 12 **children may not exceed a total of thirty percent (30%) of the**  
 13 **current salary of the rank that the deceased member held at the**  
 14 **time of death. However, this limitation does not apply to the**  
 15 **children of a member who are physically or mentally disabled.**

16 ~~(c)~~ (h) If a deceased member of the fire department leaves no  
 17 surviving spouse or children but leaves a dependent parent, and upon  
 18 satisfactory proof that the parent was wholly dependent upon the  
 19 deceased member, the local board shall authorize the monthly payment  
 20 to the parent from the 1937 fund. Each parent of a deceased member  
 21 who was eligible for a pension under this subsection is entitled to  
 22 receive jointly an amount equal to:

23 (1) thirty percent (30%) of the salary of a fully paid first class  
 24 firefighter in the unit at the time of the payment of the pension **if**  
 25 **the member dies before January 1, 2006; and**

26 **(2) thirty percent (30%) of the current salary of the rank that**  
 27 **the member held at the time of death if the member dies after**  
 28 **December 31, 2005.**

29 ~~(f)~~ (i) For purposes of this section, "dies in the line of duty" means  
 30 death that occurs as a direct result of personal injury or illness caused  
 31 by incident, accident, or violence that results from any action that the  
 32 member, in the member's capacity as a firefighter:

33 (1) is obligated or authorized by rule, regulation, condition of  
 34 employment or service, or law to perform; or

35 (2) performs while on the scene of an emergency run (including  
 36 false alarms) or on the way to or from the scene.

37 The term includes a death presumed incurred in the line of duty under  
 38 IC 5-10-13.

39 ~~(g)~~ (j) If the local board finds upon the submission of satisfactory  
 40 proof that a child eighteen (18) years of age or older is mentally or  
 41 physically incapacitated, is not a ward of the state, and is not receiving  
 42 a benefit under subsection ~~(c)(2); (d)(2) or (e)(2)~~, the child is entitled

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to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

~~(h)~~ **(k)** The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

~~(i)~~ **(l)** A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

~~(j)~~ **(m)** The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).

SECTION 15. IC 36-8-7.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The 1953 fund is derived from the following sources:

- (1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest any money, chose in action, personal property, real property, or use the same for the purposes of the 1953 fund or for such purposes specified by the grantor.
- (2) From money, fees, and awards of every nature that are given to the police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, all money from gambling cases and from gambling devices as well as the

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proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and confiscated by court order, and sold at a public sale in accordance with law.

(3) From an assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1953 fund, an amount equal to:

**(A) before January 1, 2006, six percent (6%) of the salary of a first class patrolman; and**

**(B) after December 31, 2005, an amount equal to six percent (6%) of the salary of the rank of the member.**

However, the employer may pay all or a part of the assessment for the member.

(4) From the income from investments of the 1953 fund.

(5) From the proceeds of a tax levied by the police special service district upon taxable property in the district, which the treasurer **of state** shall collect and credit to the 1953 fund, to be used exclusively by the 1953 fund.

SECTION 16. IC 36-8-7.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service;

or

(2) for a member who retires after December 31, 1985, **and before January 1, 2006**, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. The pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) **The 1953 fund shall be used to provide a member of the police department who retires after December 31, 2005, from active duty after at least twenty (20) years of service an annual**

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**pension equal to fifty percent (50%) of the salary of the rank of the member at the date of retirement. The pension shall be computed on an annual basis but shall be paid in not less than twelve (12) equal monthly installments. If the salary of the rank of the member is increased or decreased after the date of the member's retirement, the pension payable shall be proportionately increased or decreased.**

**(d)** If a member retires upon his voluntary application after twenty (20) years or more of active service, he then relinquishes all rights to other benefits or pensions for disability during the time of his retirement.

~~(d)~~ **(e)** After retirement the member is not required to render further services on the police department and is no longer subject to the rules of the police department, unless a national emergency has been declared by the local board, on application by the executive, the safety board, and the police chief of the city. Upon declaration of such an emergency, the retired member, if physically able, shall return to active duty under the rank he attained at the time of his retirement, and if he refuses to return to active duty upon being declared physically fit, he forfeits his right to receive his pension until the time he returns to active duty and again is retired or discharged from service.

~~(e)~~ **(f)** No pension, annuity, or benefit provided by this chapter is payable by the local board except upon written application by the member of the police department, or the surviving spouse or other dependent, upon the forms and with the information required by the local board.

SECTION 17. IC 36-8-7.5-13, AS AMENDED BY P.L.185-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) For a member who becomes disabled before July 1, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to:

(1) fifty percent (50%) for a disease or disability occurring before July 1, 1991; and

(2) fifty-five percent (55%) for a disease or disability occurring after June 30, 1991;

of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(b) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered or contracted a mental or physical disease or disability that render the member permanently unfit for active duty in the police department, or to an active member of the police department who has been in active service

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for less than one (1) year who has suffered or received personal injury from violent external causes while in the actual discharge of the member's duties as a police officer. The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department.

(b) For a member who becomes disabled after June 30, 2000, **and before January 1, 2006**, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) has suffered or incurred a disability that renders the member permanently unfit for active duty in the police department and that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pensions provided for in this subsection shall be paid only so long

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as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(c) For a member who becomes disabled after June 30, 2000, **and before January 1, 2006**, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who has been in active service for at least one (1) year and:

(1) has suffered or incurred a disability that:

(A) renders the member permanently unfit for active duty in the police department; and

(B) is not described in subsection (b)(1); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(d) **For a member who becomes disabled after December 31, 2005, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of the rank of the member before the disability, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:**

**(1) has suffered or incurred a disability that renders the member permanently unfit for active duty in the police department and that is:**

**(A) the direct result of:**

**(i) a personal injury that occurs while the fund member is on duty;**

**(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense; or**

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(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of the rank the disabled member holds is increased or decreased after the date of the member's disability, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member may not be reduced below the amount of the first full monthly pension received by that person.

(e) For a member who becomes disabled after December 31, 2005, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of the rank of the member in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who has been in active service for at least one (1) year and:

(1) has suffered or incurred a disability that:

(A) renders the member permanently unfit for active duty in the police department; and

(B) is not described in subsection (b)(1); and

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(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of the rank the disabled member holds is increased or decreased after the date of the member's disability, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member may not be reduced below the amount of the first full monthly pension received by that person.

(f) For a member who became disabled before July 1, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(a) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered any physical or mental disability that renders the member temporarily or permanently unable to perform his duties as a member of the police department, or to an active member of the police department who has been in active service for less than one (1) year and who has suffered or received personal injury from violent external causes while in the actual discharge of the member's duties as a police officer, until the time the member is physically and mentally able to return to active service on the police department.

~~(f)~~ (g) For a member who becomes disabled after June 30, 2000, **and before January 1, 2006**, the 1953 fund shall be used to pay a pension in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) suffers or incurs a disability that renders the member temporarily unfit for active duty in the police department and that is:

(A) the direct result of:

- (i) a personal injury that occurs while the fund member is on duty;
- (ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or
- (iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within

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clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

~~(f)~~ **(h)** For a member who becomes disabled after June 30, 2000, **and before January 1, 2006**, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department:

(1) who has been in active service for at least one (1) year;

(2) suffers or incurs a disability that:

(A) renders the member temporarily unfit for active duty in the police department; and

(B) is not described in subsection ~~(e)(1)~~; **(g)(1)**, and

(3) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty

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in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

**(i) For a member who becomes disabled after December 31, 2005, the 1953 fund shall be used to pay a pension in an annual sum equal to thirty percent (30%) of the salary of the rank of the member before the member's disability, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:**

**(1) suffers or incurs a disability that renders the member temporarily unfit for active duty in the police department and that is:**

**(A) the direct result of:**

**(i) a personal injury that occurs while the fund member is on duty;**

**(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or**

**(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);**

**(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:**

**(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;**

**(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and**

**(iii) the disease can be traced to the fund member's employment as the proximate cause); or**

**(C) a disability presumed incurred in the line of duty under IC 5-10-13; and**

**(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required**

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by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of the rank the disabled member holds is increased or decreased after the date of the member's disability, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(j) For a member who becomes disabled after December 31, 2005, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of the rank of the member before the member's disability, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) has been in active service for at least one (1) year;

(2) suffers or incurs a disability that:

(A) renders the member temporarily unfit for active duty in the police department; and

(B) is not described in subsection (e)(1); and

(3) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of the rank the disabled member holds is increased or decreased after the date of the member's disability, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

~~(g)~~ (k) If an application is made by an active member of the police department because of physical or mental disability for temporary benefits as provided in subsection ~~(d)~~, ~~(e)~~, or (f), (g), (h), (i), or (j), the benefit is not payable until the local board determines after a hearing conducted under IC 36-8-8-12.7 that the member is unfit for active duty on the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. Before the hearing, a physician to be appointed by the local board shall examine the member and certify in writing whether in the physician's opinion the member is unfit, physically or mentally, for active duty in the police

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department. After the pension or benefit has been granted by the local board, the payment commences with the original date of the injury or illness causing the disability.

(h) (l) A member who has been granted a disability benefit under this section and who fails or refuses to submit to a physical examination at any time by the local board physician has no right in the future to receive the disability benefit, and any benefit that has been granted shall be immediately canceled by the local board.

(i) (m) The local board may, from time to time, require a member of the police department who is receiving at any time disability benefits or pensions as provided in this section to be examined by the physician appointed by the local board. After the examination, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the member should continue to receive the pension or benefit. If after the examination and hearing the member is found to have recovered from the member's disability and is fit for active duty on the police department, then upon written notice to the member by the local board, the member shall be reinstated in active service, the safety board shall be informed of the action of the local board, and from that time the member is no longer entitled to payments from the 1953 fund. If the member fails or refuses to return to active duty after ordered by the local board, the member ceases to be a member of the 1953 fund and waives all rights to any further pensions or benefits provided by the 1953 fund.

(j) (n) Notwithstanding any other provision of this chapter, no disability benefit may be paid for any disability based upon or caused by any mental or physical condition that a member had at the time the member entered or reentered the member's active service in the police department.

(k) (o) If a member who is receiving disability benefits under subsection (a), (b), or (c) for a disease or disability occurring after June 30, 1991, and before January 1, 2006, is transferred from disability to regular retirement status, the member's monthly pension may not be reduced below fifty-five percent (55%) of the salary of a first class patrolman at the time of payment of the pension.

(p) If a member who is receiving disability benefits under subsection (d) or (e) for a disease or disability occurring after December 31, 2005, is transferred from disability to regular retirement status, the member's monthly pension may not be reduced below fifty-five percent (55%) of the current salary of the rank of the member before the member's disability.

(q) To the extent required by the Americans with Disabilities

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Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

~~(m)~~ (r) A fund member who is receiving disability benefits under this chapter shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

SECTION 18. IC 36-8-7.5-13.6, AS AMENDED BY P.L.1-2001, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13.6. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter).

(b) The 1953 fund shall be used to pay an annuity, computed under subsection (g) and payable in monthly installments, to the surviving spouse of a member of the fund who dies from any cause after having served for one (1) year or more. The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay:

(1) an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies before January 1, 2006; or

**(2) an annuity equal to twenty percent (20%) of the salary of the rank of the member, computed as provided in section 12(c) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies after December 31, 2005;**

from any cause after having served for one (1) year or more as an active member of the police department. The pension to each child continues

- ~~(1)~~ until the child becomes eighteen (18) years of age,
- ~~(2)~~ until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university, or
- ~~(3)~~ during the entire period of the child's physical or mental disability,

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1 whichever period is longest. However, the pension to the child ceases  
2 if the child marries or is legally adopted by any person.

3 (d) If a deceased member leaves no surviving spouse and no child  
4 who qualifies for a benefit under subsection (c) but does leave a  
5 dependent parent or parents, the 1953 fund is used to pay an annuity  
6 not greater than a sum equal to:

7 (1) twenty percent (20%) of the salary of a first class patrolman  
8 on the police department, computed and payable as provided in  
9 section 12(b) of this chapter, **if the member dies before January**  
10 **1, 2006; or**

11 (2) **twenty percent (20%) of the salary of the rank of the**  
12 **member, computed and payable as provided in section 12(c)**  
13 **of this chapter, if the member dies after December 31, 2005;**  
14 payable monthly to the dependent parent or parents of a member of the  
15 police department who dies from any cause after having served for one  
16 (1) year or more as an active member of the police department. The  
17 annuity continues for the remainder of the life or lives of the parent or  
18 parents as long as either or both fail to have sufficient other income for  
19 their proper care, maintenance, and support.

20 (e) In all cases of payment to a dependent relative of a deceased  
21 member, the local board is the final judge of the question of necessity  
22 and dependency and of the amount within the stated limits to be paid.  
23 The local board may also reduce or terminate temporarily or  
24 permanently a payment to a dependent relative of a deceased member  
25 when it determines that the condition of the 1953 fund or other  
26 circumstances make this action necessary.

27 (f) If the salary of a:

28 (1) first class patrolman **as provided under subsection (g)(1) or**  
29 **(g)(2); or**

30 (2) **member holding the rank that the deceased member held**  
31 **at the time of death as provided in subsection (g)(3);**

32 is increased or decreased, the pension payable under this section shall  
33 be proportionately increased or decreased. However, the monthly  
34 pension payable to a member or survivor may not be reduced below the  
35 amount of the first full monthly pension received by that person.

36 (g) Except as otherwise provided in this subsection, the annuity  
37 payable under subsection (b) equals one (1) of the following:

38 (1) For the surviving spouse of a member who dies before January  
39 1, 1989, thirty percent (30%) of the salary of a first class  
40 patrolman.

41 (2) For the surviving spouse of a member who dies after  
42 December 31, 1988, **and before January 1, 2006**, an amount per

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month during the spouse's life equal to the greater of:

(A) thirty percent (30%) of the monthly pay of a first class patrolman; or

(B) fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under subdivision (2)(B) the member's benefit is considered to be fifty percent (50%) of the monthly salary of a first class patrolman. The amount provided in this subdivision is subject to adjustment as provided in subsection (f).

**(3) For the surviving spouse of a member who dies after December 31, 2005, an amount per month during the spouse's life equal to the greater of:**

**(A) thirty percent (30%) of the monthly salary of the rank held by the member at the time of death; or**

**(B) fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.**

**However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under clause (B) the member's benefit is considered to be fifty percent (50%) of the monthly salary of the member at the time of death. The amount provided in this subdivision is subject to adjustment as provided in subsection (f).**

SECTION 19. IC 36-8-7.5-14.1, AS AMENDED BY P.L.86-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14.1. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, **and before January 1, 2006**, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. However, if a member of the police department dies in the line of duty after August 31, 1982, and the member's surviving spouse remarried before September 1, 1983, the benefits for the surviving spouse shall be reinstated on July

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1, 1995, and continue during the life of the surviving spouse.

(c) **If a member dies in the line of duty after December 31, 2005, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a member holding the rank that the deceased member held at the time of death.**

(d) **If a member dies in the line of duty after August 31, 1982, and before January 1, 2006, the 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:**

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longest. However, the pension to the child ceases if the child marries or is legally adopted by any person.

~~(d)~~ (e) The surviving children of the deceased member who are eligible to receive a benefit under subsection ~~(e)~~ (d) may receive an additional benefit in an amount fixed by ordinance, but the total benefit to all the member's children under this subsection may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(f) **If a member dies in the line of duty after December 31, 2005, the 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of the rank that the member held at the time of the member's death, computed as provided in section 12(c) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:**

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary

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1 school or is a full-time student at an accredited college or  
 2 university; or

3 (3) during the entire period of the child's physical or mental  
 4 disability;

5 whichever period is longest. However, the pension to the child  
 6 ceases if the child marries or is legally adopted by any person.

7 (g) The surviving children of the deceased member who are  
 8 eligible to receive a benefit under subsection (f) may receive an  
 9 additional benefit in an amount fixed by ordinance, but the total  
 10 benefit to all the member's children under this subsection may not  
 11 exceed a total of thirty percent (30%) of the monthly salary of the  
 12 rank that the deceased member held at the time of the member's  
 13 death. However, this limitation does not apply to the children of a  
 14 member who are physically or mentally disabled.

15 ~~(e)~~ (h) If a deceased member leaves no surviving spouse and no  
 16 child who qualifies for a benefit under subsection ~~(e)~~ (d) or (f) but does  
 17 leave a dependent parent or parents, the 1953 fund shall be used to pay  
 18 an annuity not greater than a sum equal to:

19 (1) twenty percent (20%) of the salary of a first class patrolman  
 20 on the police department, computed and payable as provided in  
 21 section 12(b) of this chapter, **if the member dies before January**  
 22 **1, 2006; or**

23 (2) twenty percent (20%) of the salary of the rank that the  
 24 member held at the time of the member's death, computed as  
 25 provided in section 12(c) of this chapter, **if the member dies**  
 26 **after December 31, 2005;**

27 payable monthly to the dependent parent or parents of a member of the  
 28 police department who dies from any cause while in the actual  
 29 discharge of duties as a police officer. The annuity continues for the  
 30 remainder of the life or lives of the parent or parents as long as either  
 31 or both fail to have sufficient other income for their proper care,  
 32 maintenance, and support.

33 ~~(f)~~ (i) In all cases of payment to a dependent relative of a deceased  
 34 member, the local board is the final judge of the question of necessity  
 35 and dependency and of the amount within the stated limits to be paid.  
 36 The local board may also reduce or terminate temporarily or  
 37 permanently a payment to a dependent relative of a deceased member  
 38 when it determines that the condition of the 1953 fund or other  
 39 circumstances make this action necessary.

40 ~~(g)~~ (j) If the salary of a first class patrolman **as provided under**  
 41 **subsection (b) or (d)** is increased or decreased, the pension payable  
 42 under this section shall be proportionately increased or decreased.

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1 However, the monthly pension payable to a member or survivor may  
 2 not be reduced below the amount of the first full monthly pension  
 3 received by that person.

4 **(k) If the salary of a current member of the police department**  
 5 **holding the rank that the deceased member held at the time of the**  
 6 **member's death as provided under subsection (c) or (f) is increased**  
 7 **or decreased, the pension payable under this section shall be**  
 8 **proportionately increased or decreased. However, the monthly**  
 9 **pension payable to a survivor may not be reduced below the**  
 10 **amount of the first full monthly pension received by that person.**

11 ~~(h)~~ **(l)** For purposes of this section, "dies in the line of duty" means  
 12 death that occurs as a direct result of personal injury or illness caused  
 13 by incident, accident, or violence that results from any action that the  
 14 member, in the member's capacity as a police officer:

- 15 (1) is obligated or authorized by rule, regulation, condition of  
 16 employment or service, or law to perform; or
- 17 (2) performs in the course of controlling or reducing crime or  
 18 enforcing the criminal law.

19 The term includes a death presumed incurred in the line of duty under  
 20 IC 5-10-13.

21 ~~(i)~~ **(m)** The unit of local government that employed the deceased  
 22 member shall after December 31, 2003, offer to provide and pay for  
 23 health insurance coverage for the member's surviving spouse and for  
 24 each natural child, stepchild, or adopted child of the member:

- 25 (1) until the child becomes eighteen (18) years of age;
- 26 (2) until the child becomes twenty-three (23) years of age if the  
 27 child is enrolled in and regularly attending a secondary school or  
 28 is a full-time student at an accredited college or university; or
- 29 (3) during the entire period of the child's physical or mental  
 30 disability;

31 whichever period is longest. If health insurance coverage is offered by  
 32 the unit to active members, the health insurance provided to a surviving  
 33 spouse and child under this subsection must be equal in coverage to  
 34 that offered to active members. The offer to provide and pay for health  
 35 insurance coverage shall remain open for as long as there is a surviving  
 36 spouse or as long as a natural child, stepchild, or adopted child of the  
 37 member is eligible for coverage under subdivision (1), (2), or (3).

38 SECTION 20. IC 36-8-8-8 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) Each fund  
 40 member shall contribute during the period of ~~his~~ **the member's**  
 41 employment or for thirty-two (32) years, whichever is shorter:

- 42 **(1) before January 1, 2006,** an amount equal to six percent (6%)

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of the salary of a first class patrolman or firefighter; **and**  
**(2) after December 31, 2005, an amount equal to six percent**  
**(6%) of the salary of the rank of the member.**

However, the employer may pay all or a part of the contribution for the member. The amount of the contribution, other than contributions paid on behalf of a member, shall be deducted each pay period from each fund member's salary by the disbursing officer of the employer. The employer shall send to the PERF board each year on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, a certified list of fund members and a warrant issued by the employer for the total amount deducted for fund members' contributions.

(b) If a fund member ends ~~his~~ employment other than by death or disability before ~~he~~ **the member** completes twenty (20) years of active service, the PERF board shall return to ~~him~~ **the member** in a lump sum ~~his~~ contributions plus interest as determined by the PERF board. If the fund member returns to service, ~~he~~ **the member** is entitled to credit for the years of service for which ~~his~~ **the member's** contributions were refunded if ~~he~~ **the member** repays the amount refunded to ~~him~~ **the member** in either a lump sum or a series of payments determined by the PERF board.

SECTION 21. IC 36-8-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) This section applies to all police officers and firefighters who converted their benefits under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981).

(b) A police officer or firefighter who converted ~~his~~ **the police officer's or firefighter's** benefits from a 1925, 1937, or 1953 fund to the benefits and conditions of this chapter is not entitled to receive any benefits from the original fund. However, ~~he~~ **the police officer or firefighter** is entitled to credit for all years of service for which ~~he~~ **the police officer or firefighter** would have received credit before ~~his~~ conversion in that original fund.

(c) A police officer or firefighter who:

- (1) converted ~~his~~ **the police officer's or firefighter's** benefits from a 1925, 1937, or 1953 fund;
- (2) retired or became disabled on or before June 30, 1998; and
- (3) is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;

shall be treated as a member of this fund for purposes of paying ~~his~~ **the police officer's or firefighter's** benefits from the 1977 fund effective for benefits paid on or after October 1, 1998. Prior to October 1, 1998,

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he remains a member of the original fund entitled to receive only the benefits provided under this chapter based on the eligibility requirements of this chapter.

(d) A police officer or firefighter who:

(1) converted ~~his~~ **the police officer's or firefighter's** benefits from a 1925, 1937, or 1953 fund;

(2) ~~who~~ did not retire or become disabled on or before June 30, 1998; and

(3) ~~who~~ is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;

remains a member of that original fund but is entitled to receive only the benefits provided under this chapter and based on the eligibility requirements of this chapter.

(e) A police officer or firefighter who converted shall contribute:

(1) six percent (6%) of the salary of a first class patrolman or firefighter **before January 1, 2006; and**

(2) **an amount equal to six percent (6%) of the salary of the rank of the member after December 31, 2005;**

to the 1925, 1937, or 1953 fund. This amount shall be deducted from ~~his~~ **the police officer's or firefighter's** salary each pay period by the disbursing officer of the employer. Contributions under this subsection may not be refunded.

SECTION 22. IC 36-8-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) Each fund member who qualifies for a retirement benefit payment under section 10(b) of this chapter **and who retires before January 1, 2006**, is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman or firefighter in the year the member ended ~~his~~ active service plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of that salary for each full year of active service; or

(2) for a member who retires after December 31, 1985, **and before January 1, 2006**, one percent (1%) of that salary for each six (6) months of active service;

over twenty (20) years, to a maximum of twelve (12) years.

(c) **Each fund member who qualifies for a retirement benefit under section 10(b) of this chapter and who retires after December 31, 2005, is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of the rank held by the member at the time the member ended active service.**

(d) Each fund member who qualifies for a retirement benefit

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1 payment under section 10(c) of this chapter **and who retires before**  
 2 **January 1, 2006**, is entitled to receive a monthly benefit equal to fifty  
 3 percent (50%) of the monthly salary of a first class patrolman or  
 4 firefighter in the year the member ended his active service plus one  
 5 percent (1%) of that salary for each six (6) months of active service  
 6 over twenty (20) years, to a maximum of twelve (12) years, all  
 7 actuarially reduced for each month (if any) of benefit payments prior  
 8 to fifty-two (52) years of age, by a factor established by the fund's  
 9 actuary from time to time.

10 (e) **Each fund member who qualifies for a retirement benefit**  
 11 **payment under section 10(c) of this chapter and who retires after**  
 12 **December 31, 2005, is entitled to receive a monthly benefit equal to**  
 13 **fifty percent (50%) of the monthly salary of the rank held by the**  
 14 **member at the time the member ended active service all actuarially**  
 15 **reduced for each month (if any) of benefit payments before**  
 16 **becoming fifty-two (52) years of age, by a factor established**  
 17 **periodically by the fund's actuary.**

18 SECTION 23. IC 36-8-8-13.5 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13.5. (a) This section  
 20 applies only to a fund member who:

- 21 (1) is hired for the first time after December 31, 1989;
- 22 (2) chooses coverage by this section and section 12.5 of this
- 23 chapter under section 12.4 of this chapter; or
- 24 (3) is described in section 12.3(c)(2) of this chapter.

25 (b) A fund member who is determined to have a Class 1 impairment  
 26 and for whom it is determined that there is no suitable and available  
 27 work within the fund member's department, considering reasonable  
 28 accommodation to the extent required by the Americans with  
 29 Disabilities Act, is entitled to a monthly base benefit:

- 30 (1) equal to forty-five percent (45%) of the monthly salary of a
- 31 first class patrolman or firefighter **for a Class 1 impairment**
- 32 **occurring before January 1, 2006; and**
- 33 (2) equal to forty-five percent (45%) of the monthly salary of
- 34 **the rank of the member at the time of the occurrence of the**
- 35 **Class 1 impairment for a Class 1 impairment occurring after**
- 36 **December 31, 2005;**

37 in the year of the local board's determination of impairment.

38 (c) A fund member who is determined to have a Class 2 impairment  
 39 and for whom it is determined that there is no suitable and available  
 40 work within the fund member's department, considering reasonable  
 41 accommodation to the extent required by the Americans with  
 42 Disabilities Act, is entitled to a monthly base benefit:

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(1) equal to twenty-two percent (22%) of the monthly salary of a first class patrolman or firefighter **for a Class 2 impairment occurring before January 1, 2006**, in the year of the local board's determination of impairment plus one-half percent (0.5%) of that salary for each year of service, up to a maximum of thirty (30) years of service; **and**

(2) equal to twenty-two percent (22%) of the monthly salary of the rank of the member at the time of the occurrence of the **Class 2 impairment for a Class 2 impairment occurring after December 31, 2005.**

(d) For applicants hired before March 2, 1992, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit:

(1) equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter **for a Class 3 impairment occurring before January 1, 2006; and**

(2) equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one percent (1%) of the monthly salary of the rank of the member **at the time of the occurrence of the Class 3 impairment for a Class 3 impairment occurring after December 31, 2005;**

in the year of the local board's determination of impairment.

(e) For applicants hired after March 1, 1992, or described in section 12.3(c)(2) of this chapter, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to the following benefits instead of benefits provided under subsection (d):

(1) If the fund member did not have a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund, **and the Class 3 impairment occurred:**

(A) **before January 1, 2006**, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of a first

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class patrolman or firefighter in the year of the local board's determination of impairment; **or**

**(B) after December 31, 2005, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of the rank of the member at the time of the occurrence of the Class 3 impairment in the year of the local board's determination of impairment.**

(2) Except as provided in subdivision (5), a fund member is entitled to receive the benefits set forth in subdivision (1) if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund;

(B) the fund member has a Class 3 impairment that is not related in any manner to the Class 3 excludable condition described in clause (A); and

(C) the Class 3 impairment described in clause (B) occurs after the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(3) Except as provided in subdivision (5), a fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment occurs before the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(4) A fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment is related in any manner to the Class 3 excludable condition.

(5) If during the first four (4) years of service with the employer:

(A) a fund member with a Class 3 excludable condition is determined to have a Class 3 impairment; and

(B) the Class 3 impairment is attributable to an accidental injury that is not related in any manner to the fund member's Class 3 excludable condition;

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the member is entitled to receive the benefits provided in subdivision (1) with respect to the accidental injury. For purposes of this subdivision, the local board shall make the initial determination of whether an impairment is attributable to an accidental injury. The local board shall forward the initial determination to the director of the PERF board for a final determination by the PERF board or the PERF board's designee.

(f) If a fund member is entitled to a monthly base benefit under:

(1) subsection ~~(b)~~, ~~(c)~~, ~~(d)~~, or ~~(e)~~ **(b)(1), (c)(1), (d)(1), or (e)(1)(A)**, the fund member is also entitled to a monthly amount that is ~~no not~~ less than ten percent (10%) and ~~no greater not more~~ than forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

**(2) subsection (b)(2), (c)(2), (d)(2), or (e)(1)(B), the fund member is also entitled to a monthly amount that is not less than ten percent (10%) and not more than forty-five percent (45%) of the monthly salary of the rank of the member in the year of the local board's determination of impairment.**

The additional monthly amount **under either subdivision (1) or (2)** shall be determined by the PERF medical authority based on the degree of impairment.

(g) Benefits for a Class 1 impairment are payable until the fund member becomes fifty-two (52) years of age. Benefits for a Class 2 and a Class 3 impairment are payable:

**(1) for an impairment occurring:**

**(A) before January 1, 2006**, for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment and the member has fewer than four (4) years of service; or

**(B) after December 31, 2005, for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of the rank of the member in the year of the local board's determination of impairment and the member has less than four (4) years of service; or**

**(2) for an impairment occurring:**

**(A) before January 1, 2006**, until the member becomes fifty-two (52) years of age if the member's benefit is:

~~(A)~~ **(i) equal to or greater than thirty percent (30%) of the**

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monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or  
~~(B)~~ (ii) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service; **or**

**(B) after December 31, 2005, until the member becomes fifty-two (52) years of age if the member's benefit is:**

(i) equal to or more than thirty percent (30%) of the monthly salary of the rank of the member in the year of the local board's determination of impairment; or  
 (ii) less than thirty percent (30%) of the monthly salary of the rank of the member in the year of the local board's determination of impairment if the member has at least four (4) years of service.

(h) Upon becoming fifty-two (52) years of age, a fund member with a Class 1 or Class 2 impairment is entitled to receive the retirement benefit payable to a fund member with:

- (1) twenty (20) years of service; or
- (2) the total years of service and salary, as of the year the member becomes fifty-two (52) years of age, that the fund member would have earned if the fund member had remained in active service until becoming fifty-two (52) years of age;

whichever is greater.

(i) Upon becoming fifty-two (52) years of age a fund member:

**(1) with a Class 3 impairment that occurred before January 1, 2006**, who is receiving or has received a Class 3 impairment benefit that is:

~~(A)~~ **(A)** equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or  
~~(B)~~ **(B)** less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service; **or**

**(2) with a Class 3 impairment that occurred after December 31, 2005, who is receiving or has received a Class 3 impairment benefit that is:**

**(A) equal to or more than thirty percent (30%) of the monthly salary of the rank of the member in the year of the local board's determination of impairment; or**  
**(B) less than thirty percent (30%) of the monthly salary of**

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1           **the rank of the member in the year of the local board's**  
 2           **determination of impairment if the member has at least**  
 3           **four (4) years of service;**

4           is entitled to receive the retirement benefit payable to a fund member  
 5           with twenty (20) years of service.

6           (j) Notwithstanding section 12.3 of this chapter and any other  
 7           provision of this section, a member who:

8               (1) has had a covered impairment;

9               (2) recovers and returns to active service with the department; and

10              (3) within two (2) years after returning to active service has an  
 11              impairment that, except for section 12.3(b)(3) of this chapter,  
 12              would be a covered impairment;

13           is entitled to the benefit under this subsection if the impairment  
 14           described in subdivision (3) results from the same condition or  
 15           conditions (without an intervening circumstance) that caused the  
 16           covered impairment described in subdivision (1). The member is  
 17           entitled to receive the monthly disability benefit amount paid to the  
 18           member at the time of the member's return to active service plus any  
 19           adjustments under section 15 of this chapter that would have been  
 20           applicable during the member's period of reemployment.

21           SECTION 24. IC 36-8-8-13.8, AS ADDED BY P.L.118-2000,  
 22           SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23           JULY 1, 2004]: Sec. 13.8. (a) This section applies to an active or  
 24           retired member who dies other than in the line of duty (as defined in  
 25           section 14.1 of this chapter) after August 31, 1982.

26           (b) If a fund member dies **before January 1, 2006**, while receiving  
 27           retirement or disability benefits, the following apply:

28               (1) Except as otherwise provided in this subsection, each of the  
 29               member's surviving children is entitled to a monthly benefit equal  
 30               to twenty percent (20%) of the fund member's monthly benefit:

31                   (A) until the child becomes eighteen (18) years of age; or

32                   (B) until the child becomes twenty-three (23) years of age if  
 33                   the child is enrolled in and regularly attending a secondary  
 34                   school or is a full-time student at an accredited college or  
 35                   university;

36           whichever period is longer. However, if the board finds upon the  
 37           submission of satisfactory proof that a child who is at least  
 38           eighteen (18) years of age is mentally or physically incapacitated,  
 39           is not a ward of the state, and is not receiving a benefit under  
 40           clause (B), the child is entitled to receive an amount each month  
 41           that is equal to the greater of thirty percent (30%) of the monthly  
 42           pay of a first class patrolman or first class firefighter or fifty-five

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percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If a fund member dies while receiving retirement or disability benefits, there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

**(c) If a fund member dies after December 31, 2005, while receiving retirement or disability benefits, the following apply:**

**(1) Except as otherwise provided in this subsection, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:**

- (A) until the child becomes eighteen (18) years of age; or**
- (B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;**

**whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly salary of the rank of the member or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or**

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1 physical incapacity of the child continues. Benefits paid for a  
 2 child shall be paid to the surviving parent as long as the child  
 3 resides with and is supported by the surviving parent. If the  
 4 surviving parent dies, the benefits shall be paid to the legal  
 5 guardian of the child.

6 (2) The member's surviving spouse is entitled to a monthly  
 7 benefit equal to sixty percent (60%) of the fund member's  
 8 monthly benefit during the spouse's lifetime.

9 If a fund member dies while receiving retirement or disability  
 10 benefits, there is no surviving eligible child or spouse, and there is  
 11 proof satisfactory to the local board, subject to review in the  
 12 manner specified in section 13.1(b) of this chapter, that the parent  
 13 was wholly dependent on the fund member, the member's  
 14 surviving parent is entitled, or both surviving parents if qualified  
 15 are entitled jointly, to receive fifty percent (50%) of the fund  
 16 member's monthly benefit during the parent's or parents' lifetime.

17 (d) Except as otherwise provided in this subsection, if a fund  
 18 member dies while on active duty or while retired and not receiving  
 19 benefits, the member's children and the member's spouse, or the  
 20 member's parent or parents are entitled to receive a monthly benefit  
 21 determined under ~~subsection~~ subsections (b) and (c). If the fund  
 22 member did not have at least twenty (20) years of service or was not at  
 23 least fifty-two (52) years of age, the benefit is computed as if the  
 24 member:

25 (1) did have twenty (20) years of service; and

26 (2) was fifty-two (52) years of age.

27 SECTION 25. IC 36-8-8-14.1, AS AMENDED BY P.L.86-2003,  
 28 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2004]: Sec. 14.1. (a) Benefits paid under this section are  
 30 subject to section 2.5 of this chapter.

31 (b) This section applies to an active member who dies in the line of  
 32 duty after August 31, 1982.

33 (c) If a fund member dies in the line of duty after August 31, 1982,  
 34 the member's surviving spouse is entitled to a monthly benefit during  
 35 the spouse's lifetime, equal to the benefit to which the member would  
 36 have been entitled on the date of the member's death, but not less than  
 37 the benefit payable to a member with twenty (20) years service at  
 38 fifty-two (52) years of age. If the spouse remarried before September  
 39 1, 1983, and benefits ceased on the date of remarriage, the benefits for  
 40 the surviving spouse shall be reinstated on July 1, 1997, and continue  
 41 during the life of the surviving spouse.

42 (d) If a fund member dies in the line of duty **after August 31, 1982,**

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1 **and before January 1, 2006**, each of the member's surviving children  
 2 is entitled to a monthly benefit equal to twenty percent (20%) of the  
 3 fund member's monthly benefit:

- 4 (1) until the child reaches eighteen (18) years of age; or  
 5 (2) until the child reaches twenty-three (23) years of age if the  
 6 child is enrolled in and regularly attending a secondary school or  
 7 is a full-time student at an accredited college or university;

8 whichever period is longer. However, if the board finds upon the  
 9 submission of satisfactory proof that a child who is at least eighteen  
 10 (18) years of age is mentally or physically incapacitated, is not a ward  
 11 of the state, and is not receiving a benefit under subdivision (2), the  
 12 child is entitled to receive an amount each month that is equal to the  
 13 greater of thirty percent (30%) of the monthly pay of a first class  
 14 patrolman or first class firefighter or fifty-five percent (55%) of the  
 15 monthly benefit the deceased member was receiving or was entitled to  
 16 receive on the date of the member's death as long as the mental or  
 17 physical incapacity of the child continues. Benefits paid for a child  
 18 shall be paid to the surviving parent as long as the child resides with  
 19 and is supported by the surviving parent. If the surviving parent dies,  
 20 the benefits shall be paid to the legal guardian of the child.

21 **(e) If a fund member dies in the line of duty after December 31,**  
 22 **2005, each of the member's surviving children is entitled to a**  
 23 **monthly benefit equal to twenty percent (20%) of the fund**  
 24 **member's monthly benefit:**

- 25 (1) until the child becomes eighteen (18) years of age; or  
 26 (2) until the child becomes twenty-three (23) years of age if  
 27 the child is enrolled in and regularly attending a secondary  
 28 school or is a full-time student at an accredited college or  
 29 university;

30 whichever period is longer. However, if the board finds upon the  
 31 submission of satisfactory proof that a child who is at least eighteen  
 32 (18) years of age is mentally or physically incapacitated, is not a  
 33 ward of the state, and is not receiving a benefit under subdivision  
 34 (2), the child is entitled to receive an amount each month that is  
 35 equal to the greater of thirty percent (30%) of the monthly salary  
 36 of the rank that the deceased member held at the time of death or  
 37 fifty-five percent (55%) of the monthly benefit the deceased  
 38 member was receiving or was entitled to receive on the date of the  
 39 member's death as long as the mental or physical incapacity of the  
 40 child continues. Benefits paid for a child shall be paid to the  
 41 surviving parent as long as the child resides with and is supported  
 42 by the surviving parent. If the surviving parent dies, the benefits

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1 **shall be paid to the legal guardian of the child.**

2 (f) If there is no surviving eligible child or spouse, and there is proof  
3 satisfactory to the local board, subject to review in the manner  
4 specified in section 13.1(b) of this chapter, that the parent was wholly  
5 dependent on the fund member, the member's surviving parent is  
6 entitled, or both surviving parents if qualified are entitled jointly, to  
7 receive fifty percent (50%) of the fund member's monthly benefit  
8 during the parent's or parents' lifetime.

9 (g) If the fund member did not have at least twenty (20) years of  
10 service or was not at least fifty-two (52) years old, the benefit is  
11 computed as if the member:

12 (1) did have twenty (20) years of service; and

13 (2) was fifty-two (52) years of age.

14 (h) For purposes of this section, "dies in the line of duty" means  
15 death that occurs as a direct result of personal injury or illness caused  
16 by incident, accident, or violence that results from:

17 (1) any action that the member, in the member's capacity as a  
18 police officer:

19 (A) is obligated or authorized by rule, regulation, condition of  
20 employment or service, or law to perform; or

21 (B) performs in the course of controlling or reducing crime or  
22 enforcing the criminal law; or

23 (2) any action that the member, in the member's capacity as a  
24 firefighter:

25 (A) is obligated or authorized by rule, regulation, condition of  
26 employment or service, or law to perform; or

27 (B) performs while on the scene of an emergency run  
28 (including false alarms) or on the way to or from the scene.

29 The term includes a death presumed incurred in the line of duty under  
30 IC 5-10-13.

31 (i) The unit of local government that employed the deceased  
32 member shall after December 31, 2003, offer to provide and pay for  
33 health insurance coverage for the member's surviving spouse and for  
34 each natural child, stepchild, or adopted child of the member:

35 (1) until the child becomes eighteen (18) years of age;

36 (2) until the child becomes twenty-three (23) years of age if the  
37 child is enrolled in and regularly attending a secondary school or  
38 is a full-time student at an accredited college or university; or

39 (3) during the entire period of the child's physical or mental  
40 disability;

41 whichever period is longest. If health insurance coverage is offered by  
42 the unit to active members, the health insurance provided to a surviving

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spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

SECTION 26. IC 36-8-8-18, AS AMENDED BY P.L.61-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) Except as provided in subsection (b), if a unit becomes a participant in the 1977 fund, credit for prior service by police officers (including prior service as a full-time, fully paid town marshal or full-time, fully paid deputy town marshal by a police officer employed by a metropolitan board of police commissioners) or by firefighters before the date of participation may be given by the PERF board only if:

(1) the unit contributes to the 1977 fund the amount necessary to amortize prior service liability over a period of not more than forty (40) years, the amount and period to be determined by the PERF board; and

(2) the police officers or firefighters pay, either in a lump sum or in a series of payments determined by the PERF board, the amount that they would have contributed if they had been members of the 1977 fund during their prior service.

If the requirements of subdivisions (1) and (2) are not met, a fund member is entitled to credit only for years of service after the date of participation.

(b) If a unit becomes a participant in the 1977 fund under section 3(c) of this chapter, or if a firefighter becomes a member of the 1977 fund under section 7(g) of this chapter **before January 1, 2006**, credit for prior service before the date of participation or membership shall be given by the PERF board as follows:

(1) For a member who will accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, the member will be given credit in the 1977 fund for one-third (1/3) of the member's years of participation in PERF as a police officer, a firefighter, or an emergency medical technician.

(2) For a member who will not accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, such prior service shall be given only if:

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(A) The unit contributes to the 1977 fund the amount necessary to fund prior service liability amortized over a period of not more than ten (10) years. The amount of contributions must be based on the actual salary earned by a first class firefighter at the time the unit becomes a participant in the 1977 fund, or the firefighter becomes a member of the 1977 fund, or if no such salary designation exists, the actual salary earned by the firefighter. However, credit for prior service is limited to the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter reaches the earliest retirement age under the 1977 fund at the time of the member's date of participation in the 1977 fund. The limit on credit for prior service does not apply if the firefighter was a member of the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 and who subsequently became a member of the 1977 fund. A firefighter who was a member of or reentered the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 is entitled to full credit for prior service in an amount equal to the firefighter's years of service before becoming a member of or reentering the 1977 fund. Service may only be credited for time as a full-time, fully paid firefighter or as an emergency medical technician under section 7(g) of this chapter.

(B) The amount the firefighter would have contributed if the firefighter had been a member of the 1977 fund during the firefighter's prior service must be fully paid and must be based on the firefighter's actual salary earned during that period before service can be credited under this section.

(C) Any amortization schedule for contributions paid under clause (A) and contributions to be paid under clause (B) must include interest at a rate determined by the PERF board.

(3) If, at the time a unit entered the 1977 fund, the unit contributed the amount required by subdivision (2) so that a fund member received the maximum prior service credit allowed by subdivision (2) and, at a later date, the earliest retirement age was lowered, the unit may contribute to the 1977 fund on the fund member's behalf an additional amount that is determined in the same manner as under subdivision (2) with respect to the additional prior service, if any, available as a result of the lower

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retirement age. If the unit pays the additional amount described in this subdivision in accordance with the requirements of subdivision (2), the fund member shall receive the additional service credit necessary for the fund member to retire at the lower earliest retirement age.

(c) If a unit becomes a participant in the 1977 fund under section 3(c) of this chapter, or if a firefighter becomes a member of the 1977 fund under section 7(g) of this chapter after December 31, 2005, credit for prior service before the date of participation or membership shall be given by the PERF board as follows:

(1) For a member who will accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, the member will be given credit in the 1977 fund for one-third (1/3) of the member's years of participation in PERF as a police officer, a firefighter, or an emergency medical technician.

(2) For a member who will not accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, credit for such prior service shall be given only if:

(A) The unit contributes to the 1977 fund the amount necessary to fund prior service liability amortized over a period of not more than ten (10) years. The amount of contributions must be based on the actual salary of the rank of the member at the time the unit becomes a participant in the 1977 fund, or the firefighter becomes a member of the 1977 fund. However, credit for prior service is limited to the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter reaches the earliest retirement age under the 1977 fund at the time of the member's date of participation in the 1977 fund. The limit on credit for prior service does not apply if the firefighter was a member of the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 and who subsequently became a member of the 1977 fund. A firefighter who was a member of or reentered the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under

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IC 36-8-11-5 is entitled to full credit for prior service in an amount equal to the firefighter's years of service before becoming a member of or reentering the 1977 fund. Service may only be credited for time as a full-time, fully paid firefighter or as an emergency medical technician under section 7(g) of this chapter.

(B) The amount the firefighter would have contributed if the firefighter had been a member of the 1977 fund during the firefighter's prior service must be fully paid and must be based on the firefighter's actual salary earned during that period before service can be credited under this section.

(C) Any amortization schedule for contributions paid under clause (A) and contributions to be paid under clause (B) must include interest at a rate determined by the PERF board.

(3) If, at the time a unit entered the 1977 fund, the unit contributed the amount required by subdivision (2) so that a fund member received the maximum prior service credit allowed by subdivision (2) and, at a later date, the earliest retirement age was lowered, the unit may contribute to the 1977 fund on the fund member's behalf an additional amount that is determined in the same manner as under subdivision (2) with respect to the additional prior service, if any, available as a result of the lower retirement age. If the unit pays the additional amount described in this subdivision in accordance with the requirements of subdivision (2), the fund member shall receive the additional service credit necessary for the fund member to retire at the lower earliest retirement age.

(d) This subsection applies to a unit that:

(1) becomes a participant in the 1977 fund under section 3(c) of this chapter; and

(2) is a fire protection district created under IC 36-8-11 that includes a township or a municipality that had a 1937 fund.

A firefighter who continues uninterrupted service with a unit covered by this subsection and who participated in the township or municipality 1937 fund is entitled to receive service credit for such service in the 1977 fund. However, credit for such service is limited to the amount accrued by the firefighter in the 1937 fund or the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter becomes fifty-five (55) years of

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age, whichever is less.

~~(d)~~ (e) The unit shall contribute into the 1977 fund the amount necessary to fund the amount of past service determined in accordance with subsection ~~(c)~~, (d), amortized over a period not to exceed ten (10) years with interest at a rate determined by the PERF board.

~~(e)~~ (f) If the township or municipality has accumulated money in its 1937 fund, any amount accumulated that exceeds the present value of all projected future benefits from the 1937 plan shall be paid by the township or municipality to the unit for the sole purpose of making the contributions determined in subsection ~~(d)~~; (e).

~~(f)~~ (g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

~~(g)~~ (h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 27. IC 36-8-8.5-7, AS ADDED BY P.L.62-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. As used in this chapter, "DROP frozen benefit" means a member's monthly retirement benefit calculated under the provisions of the applicable fund and based on:

(1) the salary of:

(A) a first class officer or firefighter that is in effect on the member's DROP entry date, **if the member's DROP entry date is before January 1, 2006; or**

(B) the rank of the member on the member's DROP entry

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1           **date, if the member's DROP entry date is after December**  
 2           **31, 2005; and**

3           (2) the member's years of service accrued on the member's DROP  
 4           entry date.

5           SECTION 28. IC 36-8-8.5-13, AS ADDED BY P.L.62-2002,  
 6           SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7           JULY 1, 2004]: Sec. 13. (a) A cost of living adjustment to the monthly  
 8           benefit of a member of the 1925 fund, 1937 fund, or 1953 fund **who**  
 9           **retires before January 1, 2006**, is determined in STEP FOUR of the  
 10          following formula:

11          STEP ONE: Calculate a percentage by dividing:

12           (A) the amount of any increase in the salary of a first class  
 13           officer or firefighter, whichever is applicable; by

14           (B) the prior year's salary of a first class officer or firefighter,  
 15           whichever is applicable.

16          STEP TWO: Add:

17           (A) the member's DROP frozen benefit; and

18           (B) the amount of any prior cost of living adjustments  
 19           calculated under this section.

20          STEP THREE: Multiply the percentage determined under STEP  
 21          ONE by the sum determined under STEP TWO.

22          STEP FOUR: Add the product determined under STEP THREE  
 23          to the sum determined under STEP TWO.

24          (b) **A cost of living adjustment to the monthly benefit of a**  
 25          **member of the 1925 fund, 1937 fund, or 1953 fund who retires**  
 26          **after December 31, 2005, is determined in STEP FOUR of the**  
 27          **following formula:**

28          STEP ONE: Calculate a percentage by dividing:

29           (A) the amount of any increase in the salary of the rank of  
 30           the member; by

31           (B) the prior year's salary of the rank of the member.

32          STEP TWO: Add:

33           (A) the member's DROP frozen benefit; and

34           (B) the amount of any prior cost of living adjustments  
 35           calculated under this section.

36          STEP THREE: Multiply the percentage determined under  
 37          STEP ONE by the sum determined under STEP TWO.

38          STEP FOUR: Add the product determined under STEP  
 39          THREE to the sum determined under STEP TWO.

40          (c) A cost of living adjustment to the monthly benefit of a member  
 41          of the 1977 fund is determined under the provisions of IC 36-8-8, as  
 42          applied after the member's DROP retirement date.

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